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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,405	08/01/2003	Danny Gold	P-03166	6006

7590

09/09/2004

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EXAMINER

MORAN, KATHERINE M

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/633,405	<b>Applicant(s)</b> GOLD, DANNY	
	<b>Examiner</b> Katherine M. Moran	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-12 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 2 is objected to because of the following informalities: line 2: delete “as” and insert --has--. Appropriate correction is required.
2. Please correct the spelling of “reversably” to --reversibly-- in each claim occurrence.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 7, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Da Grossa (U.S. 5,598,584). Da Grossa discloses the invention as claimed. Da Grossa teaches a glove 10 which could be used with a cell phone, comprising a glove having an inner and outer surface adapted to contain a wearer's hand, an opening 20 along a surface of the thumb portion of the glove adapted to provide access of the wearer's thumb from the inner surface through the outer surface of the glove without removing the glove, and a means 34 for reversibly opening and closing the opening to provide easy access to the opening. The glove has a shell and lining 36, with the lining being closer to the wearer's hand when the glove is worn on the wearer's hand (Figure 6) and with the lining having a slitted opening as is shown in Figure 7. Glove 10 includes openings 20 along the finger portions 16 including a second means 34 for reversibly opening and closing the opening.

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5. Claims 1-5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Peters (U.S. 4,654,895). Peters discloses the invention as claimed. Peters teaches a glove 1 which could be used with a cell phone, comprising a glove having an inner and outer surface adapted to contain a wearer's hand, an opening 4 along a surface of the thumb portion of the glove adapted to provide access of the wearer's thumb from the inner surface through the outer surface of the glove without removing the glove, and a zipper means 3 for reversibly opening and closing the opening to provide easy access to the opening. Column 3, lines 37 and 38 recite that the glove is insulated to provide maximum warmth and weather proofing. This recitation implies the presence of an inner lining. Figure 5 shows the wearer's fingers extending from an inner space to a position outside the glove shell. Accordingly, the lining would also include an opening. At least one finger 5 also includes an opening and a zipper means 4 for reversibly opening and closing.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peters '895 in view of Stout et al. (U.S. 5,699,632). Peters discloses the invention substantially as claimed. However, Peters does not teach a hook and pile closure means. Peters teaches in col.3, lines 54-56 that the zipper means may be replaced by any other closure means. Hook and pile are

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equivalent in the art to various other fastening means including zippers, snaps, and button-buttonholes since all produce the same end result. Stout teaches a glove opening 22 having a zipper closure means 24 that maybe replaced by hook and pile fasteners (col.3, lines 61-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the zipper of Peters with the hook and pile as taught by Stout, because hook and pile closures are easily manipulated by one hand.

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters in view of Pacifico (U.S. 1,329,996). Peters discloses the invention substantially as claimed. However, Peters does not teach a shell opening partially covered by a releasably secured flap. Pacifico teaches a glove with openings 1,2 which are covered by a releasable flap 5,6 secured by buttons or otherwise (line 62-66). Applicant's specification has not disclosed a particular advantage of employing one reversible closure means over another. Therefore, it would have been obvious to one of ordinary skill in the art to substitute the zipper of Peters with releasably secured flap of Pacifico in order to achieve a particular aesthetic design or appearance.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peters/Pacifico as applied to claim 10 above, and further in view of Stout '632. Peters, when viewed with Pacifico, discloses the invention substantially as claimed. However, Peters does not teach that the flap is releasably secured to the glove thumb with a hook and pile connector. Stout teaches a hook and pile closure as discussed above. Therefore, it would have been obvious to one of ordinary skill in the art to substitute the button of Pacifico with the hook and pile of Stout because hook and loop are easily manipulated.

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***Allowable Subject Matter***

10. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chiles (U.S. 1,680,592), Eden (U.S. 2,118,463), Slimovitz (U.S. 3,098,237), and Gallucci (U.S. 4,907,297) teach relevant prior art.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (703) 305-1025. The official and after final fax number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Kmm

September 3, 2004

A handwritten signature in black ink, appearing to read 'K Moran', with a long horizontal flourish extending to the right.

Katherine Moran

Primary Examiner, AU 3765